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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/153,577	09/15/1998	DANIEL J. ZIGMOND	3382-50875/S	5732

7590 04/22/2004
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EXAMINER

PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 04/22/2004

26

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/153,577

Applicant(s)

ZIGMOND ET AL.

Examiner

Tammara R Peyton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,7,11-16,21,22,24-28 and 30-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16,30,45-51 and 60-66 is/are allowed.
- 6) ☒ Claim(s) 6,7,11-15,21,22,24-26,31-36,38-42,52-55,58,59,67-73 and 75 is/are rejected.
- 7) ☒ Claim(s) 27,28,37,41,43,44,56,57,76, 77 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 6, 7, 11-14, 21, 24-26, 31-36, 38-40, 42, 52-55, 58, 59, 62, 67, 69, 70-73, and 75, are rejected under 35 U.S.C. 102(e) as being anticipated by *Wagner et al.*, (US 6,335,736), as previously explained and cited in Paper 24.

As per claims 6, 15, 21, 22, 24, 35, 52, 53, 54, 55, 59, 62, 69, 70, 71, 72, *Wagner* teaches a method of operating a screen to crossover between display of television programming and display of supplement data from the Internet, comprising:

- displaying the television program on the screen (30, Fig. 6);

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- in response to logical address link data conveyed with the television programming, alerting a viewer to the availability of a page of supplementary data from the Internet associated with said displayed television programming; (41, Fig.6, 7, col. 6, lines 44-col. 7, lines 1-6)
- receiving a signal from the viewer indicating an interest in the supplementary data;
- responsive to said indication of viewer interest, displaying a graphical control panel that includes textual data related to said page of supplementary data, the control panel permitting the viewer to signal further interest in viewing the supplementary data;
- receiving a further signal from the viewer indicating a continued interest in the supplementary data; and
- responsive to said further indication of viewer interest, displaying said page of supplementary data. (Abstract, col. 48, lines 2, lines 1-30, col. 3, lines 8-col. 6)

As per claims 7, and 67, *Wagner* teaches displaying said icon for a predetermined period, and thereafter removing the displayed icon from the screen (pg. 5, lines 8-10)

As per claim 11, 12, 33, and 34, *Wagner* teaches of receiving and showing an icon at a predetermined time as it relates to a specific program or channel, it is

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inherent that after the specific program has ended that particular icon related to the show is removed from the screen.

As per claim 13, 36, *Wagner* teaches displaying in the graphic control panel a title of the auxiliary data (get info) associated with the icon.

As per claim 14, 38, 42 *Wagner* teaches that responsive to a second signal from the viewer during the displaying of the graphical control panel, display the auxiliary data.

As per claims 25 and 26, *Wagner* discloses receiving the auxiliary data and television signal and seeing if they can be identified by the system's memory and recalling at least part of the memory for displaying to the screen.

As per claims 31, 32, 39, and 68, *Wagner* inherently teaches that the icon is translucent in order to not inhibit viewer's program during the broadcast.

As per claims 40, 58, 73, and 75, *Wagner* teaches having a progress indicator indicating progress of retrieval of the auxiliary data. (Figs. 8a-8d)

Response to Applicant's Arguments

Applicant argued that *Wagner's* description of browser panel 31 with icons would be the same panel as show in fig. 7. Examiner respectfully disagrees with applicant. *Wagner* clearly states when window, 40 and icon 41, are displayed when interactive content is detected by the box, 2, and in response to a signal from the user during the displaying of the window, 40 and icon, 41 an information panel, 45 will be displayed. Examiner believes that the browser panel, 31 shown in Fig. 3 is different from the information panel shown in Fig. 7, because the browser panel, 31 allows the user to access interactive content without notifying the user of the available of the interactive content during for example a commercial, wherein, the information panel, 45 is displayed when the user is notified of the interactive content when watching a commercial and a signal is received from the user that indicate an interest regarding the shown icon. Applicant argues that *Wagner* teaches away from the "timing of actions involving the icon" and Examiner respectfully disagrees with Applicant.

Once the signal is received from the user during the display of the icon, 41, the information panel, 45 is displayed that is operable by the user to cause is display of the interaction content (available web sites) related to the icon, 41 via two buttons (GET. INFO, PREV INFO) that are shown in the information panel, 45. Examiner believes that the information panel is first *shown* and *then* the user chooses to cause the display of the interactive content by selecting between the two buttons. In other words, *Wagner*

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does not teach going directly from displaying the icon, 41 and receiving a signal from the user that would directly display a web page upon receiving the signal associated with the icon.

Allowable Subject Matter

Claims 16, 30, 45-51 and 60-66 are allowed.

Claims 27, 28, 37, 41, 43, 44, 56, 57, 76, and 77 objected to as being dependent upon a rejected base claim, but would be allowable if an objected claim is added to the rejected independent claim including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (703) 306-5508. The examiner can normally be reached between 8:00 - 4:30 from Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin, can be reached on (703) 308-3301. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 305-3718.

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231.

Faxes for Official/formal, After Final, or for informal or draft (please label "PROPOSED" or "DRAFT") communications intended for entry should be sent to:

703-872-9306,

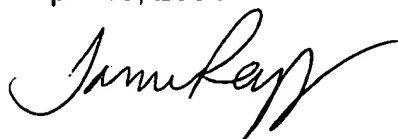
Hand-delivered responses should be brought to:

Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor

(Receptionist).

Tammara Peyton

April 19, 2004

A handwritten signature in black ink, appearing to read 'Tammara Peyton', written in a cursive style.